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MV

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/497,259	02/03/00	ADIFON	CT-4538

C26584
OTIS ELEVATOR COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
10 FARM SPRINGS
FARMINGTON CT 06032

PM82/1004

EXAMINER	
TRAN, T	
ART UNIT	PAPER NUMBER
3652	4

DATE MAILED: 10/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/497,359	Applicant(s) Adifon et al.
	Examiner Thuy V. Tran	Art Unit 3652
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
<p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
<p>Status</p> <p>1) <input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
<p>Disposition of Claims</p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-13</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) <u>11-13</u> is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
<p>Application Papers</p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<p>Priority under 35 U.S.C. § 119</p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
<p>Attachment(s)</p> <p>15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>2</u></p> <p>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>20) <input type="checkbox"/> Other: _____</p>		

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, drawn to an elevator system, classified in class 187, subclass 411.
 - II. Claims 11-13, drawn to a method of counteracting load reaction forces, classified in class 187, subclass 406.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case at least the elevator assembly of base claim 11 may be suspended other than ropes as required by claim 1.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. In a telephone message from Mr. Randy Henley on September 26, 2001 a provisional election was made with traverse to prosecute the invention of I, claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-13 are withdrawn

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from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 9 recites the limitation "the elevator car" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-10 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Rodosta 3,395,777.

Rodosta '777 discloses an elevator system comprising an elevator assembly 38 suspended by elevator ropes 46 & 47 having ends suspended with respect to a rigid structure (the floor), a rigid compression member 18, 19 & 20 positioned with respect to the rigid structure in such a manner so as to counter moment forces and inwardly-directed horizontal forces applied to the rigid structure due to a vertical load attributable to the elevator assembly.

With regard to claim 3, the compression member is horizontally aligned.

With regard to claims 4-6, mounting brackets 16 for attaching the elevator assembly 38 to the rigid structure; wherein the mounting brackets are positioned on opposite sides of the elevator assembly, and the compression member is positioned between the mounting brackets.

With regard to claim 7, the elevator rope ends are suspended by mounting brackets (upper end of cylinder 24 and/or 50 in Figure 5)

With regard to claim 10, the compression member is located between a pair of elevator guide rails.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the cited references separately discloses an elevator system having a compression member located with respect to a rigid structure for counter forces applied to the rigid structure due to vertical loads.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is (703) 308-2558.


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

TVT (1V1)

September 26, 2001